

KANSAS MEDICAID STATE PLAN

Attachment 4.19-D
Part I
Subpart N

**Methods and Standards for Establishing Payment Rates-
Skilled Nursing and Intermediate Care Facility Rates
(NFs and NFs/MH)**

This subpart reserved for future use.

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Part I

Subpart O

Methods and Standards for Establishing Payment Rates-
Skilled Nursing and Intermediate Care Facility Rates
(NFs and NFs/MH)

Reserve for future use

JUN 9 1999

TN#MS99-01 Approval Date: _____ Effective Date: 1/1/99 Supersedes TN#MS-93-19

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Part I
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**Methods and Standards for Establishing Payment Rates-
Skilled Nursing and Intermediate Care Facility Rates
(NFs and NFs/MH)**

This subpart reserved for future use.

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Part I

Subpart Q

Methods and Standards for Establishing Payment Rates-
Skilled Nursing and Intermediate Care Facility Rates
(NFs and NFs/MH)

Reserve for future use

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Part I

Subpart R

**Methods and Standards for Establishing Payment Rates-
Skilled Nursing and Intermediate Care Facility Rates
(NFs and NFs/MH)**

Appeal Procedures

Pursuant to 42 CFR 447.253(e) the State Medicaid Agency in accordance with federal regulations and with state statutes and regulations provides a fair hearing procedure that allows for an administrative review and an appeal by the facility as to its payment rates before the Administrative Hearings Section of the agency. The appeals procedures are defined in the Kansas Statutes Annotated and Kansas Administrative regulations.

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5-3104 STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES

(b) If the lieutenant governor is appointed by the governor under the provision of K.S.A. 75-303 and amendments thereto, the lieutenant governor shall receive a salary to be fixed by the governor or a salary as provided for in subsection (a) of this section, whichever is greater.

History: R.S. 1923, 75-3103; L. 1949, ch. 430, § 1; L. 1953, ch. 383, § 2; L. 1955, ch. 366, § 1; L. 1959, ch. 337, § 3; L. 1961, ch. 413, § 2; L. 1963, ch. 419, § 7; L. 1967, ch. 449, § 2; L. 1972, ch. 153, § 41; L. 1973, ch. 157, § 20; L. 1974, ch. 361, § 92; L. 1978, ch. 350, § 6; L. 1982, ch. 355, § 2; L. 1982, ch. 354, § 21; L. 1992, ch. 296, § 14; L. 1995, ch. 256, § 14; L. 1998, ch. 196, § 6; June 14.

75-3104. Salary of secretary of state. Except as otherwise provided in K.S.A. 75-3111a and amendments thereto, the secretary of state shall receive for services a salary at a biweekly pay rate of \$2,648.45.

History: L. 1949, ch. 431, § 5; L. 1953, ch. 383, § 3; L. 1959, ch. 337, § 4; L. 1961, ch. 413, § 3; L. 1965, ch. 458, § 30; L. 1967, ch. 443, § 21; L. 1972, ch. 153, § 42; L. 1973, ch. 175, § 63; L. 1974, ch. 361, § 69; L. 1976, ch. 380, § 18; L. 1978, ch. 350, § 7; L. 1982, ch. 354, § 22; L. 1985, ch. 278, § 16; L. 1992, ch. 296, § 15; L. 1995, ch. 256, § 15; L. 1998, ch. 196, § 7; June 14.

75-3108. Salary of state treasurer. Except as otherwise provided in K.S.A. 75-3111a and amendments thereto, the state treasurer shall receive for services a salary at a biweekly pay rate of \$2,648.45.

History: L. 1949, ch. 431, § 7; L. 1953, ch. 383, § 5; L. 1959, ch. 337, § 6; L. 1961, ch. 413, § 5; L. 1965, ch. 458, § 32; L. 1967, ch. 443, § 23; L. 1972, ch. 153, § 44; L. 1973, ch. 175, § 68; L. 1974, ch. 361, § 70; L. 1976, ch. 380, § 19; L. 1978, ch. 350, § 8; L. 1982, ch. 354, § 23; L. 1985, ch. 278, § 17; L. 1992, ch. 296, § 16; L. 1995, ch. 256, § 16; L. 1998, ch. 196, § 8; June 14.

75-3110. Salary of attorney general. Except as otherwise provided in K.S.A. 75-3111a and amendments thereto, the attorney general shall receive for services a salary at a biweekly pay rate of \$3,045.64.

History: L. 1949, ch. 431, § 2; L. 1953, ch. 383, § 6; L. 1959, ch. 337, § 7; L. 1961, ch. 413, § 6; L. 1965, ch. 458, § 33; L. 1967, ch. 443, § 24; L. 1972, ch. 153, § 45; L. 1973, ch. 175, § 64; L. 1974, ch. 361, § 71; L. 1978, ch. 350, § 9; L. 1982,

ch. 354, § 24; L. 1985, ch. 278, § 18; L. 1992, ch. 296, § 17; L. 1995, ch. 256, § 17; L. 1998, ch. 196, § 9; June 14.

75-3111a. Percentage increases in annual salaries of governor, lieutenant governor, attorney general, secretary of state, state treasurer and commissioner of insurance. Whenever the rates of compensation of the pay plan for persons in the classified service under the Kansas civil service act are increased for payroll periods chargeable to fiscal years commencing after June 30, 1999, the salary of the governor, the lieutenant governor, the attorney general, the secretary of state, the state treasurer and the commissioner of insurance shall be increased by an amount computed by multiplying the average of the percentage increases in all steps of such pay plan by the salary of the elected state officer which is being received as provided by law and which is in effect prior to the effective date of such increase in the rates of compensation of the pay plan for persons in the classified service under the Kansas civil service act.

History: L. 1982, ch. 354, § 26; L. 1985, ch. 278, § 20; L. 1992, ch. 296, § 18; L. 1995, ch. 256, § 18; L. 1998, ch. 196, § 10; June 14.

Article 33.—SOCIAL AND REHABILITATION SERVICES

75-3306. Appeals to secretary; investigations; subpoenas; hearings, when required; application of Kansas administrative procedure act, exceptions; jurisdiction. (a) The secretary of social and rehabilitation services, except as set forth in the Kansas administrative procedure act and subsections (f), (g), (h) and (i), shall provide a fair hearing for any person who is an applicant, client, inmate, other interested person or taxpayer who appeals from the decision or final action of any agent or employee of the secretary. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

It shall be the duty of the secretary of social and rehabilitation services to have available in all intake offices, during all office hours, forms for filing complaints for hearings, and appeal forms with which to appeal from the decision of the agent or employee of the secretary. The forms shall be prescribed by the secretary of social and rehabilitation services and shall have printed on or as a part of them the basic procedure for hearings and ap-

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SOCIAL AND REHABILITATION SERVICES

75-3365

peals prescribed by state law and the secretary of social and rehabilitation services.

(b) The secretary of social and rehabilitation services shall have authority to investigate (1) any claims and vouchers and persons or businesses who provide services to the secretary of social and rehabilitation services or to welfare recipients, (2) the eligibility of persons to receive assistance and (3) the eligibility of providers of services.

(c) The secretary of social and rehabilitation services shall have authority, when conducting investigations as provided for in this section, to issue subpoenas; compel the attendance of witnesses at the place designated in this state; compel the production of any records, books, papers or other documents considered necessary; administer oaths; take testimony; and render decisions. If a person refuses to comply with any subpoena issued under this section or to testify to any matter regarding which the person may lawfully be questioned, the district court of any county, on application of the secretary, may issue an order requiring the person to comply with the subpoena

to testify, and any failure to obey the order of a court may be punished by the court as a contempt of court. Unless incapacitated, the person placing a claim or defending a privilege before the secretary shall appear in person or by authorized representative and may not be excused from answering questions and supplying information, except in accordance with the person's constitutional rights and lawful privileges.

(d) The presiding officer may close any portion of a hearing conducted under the Kansas administrative procedure act when matters made confidential, pursuant to federal or state law or regulation are under consideration.

(e) Except as provided in subsection (d) of K.S.A. 77-511 and amendments thereto and notwithstanding the other provisions of the Kansas administrative procedure act, the secretary may enforce any order prior to the disposition of a person's application for an adjudicative proceeding unless prohibited from such action by federal or state statute, regulation or court order.

(f) Except as provided in this subsection, decisions and final actions relating to the administration of the support enforcement program set forth in K.S.A. 39-753 *et seq.* and amendments thereto shall be exempt from the provisions of the Kansas administrative procedure act and subsection (a). Decisions and final actions relating to the support enforcement program may be reviewed

pursuant to this section if the decision or final action relates directly to federal debt set-off activities or the person is specifically permitted by statute to request a fair hearing under this section.

(g) Decisions relating to administrative disqualification hearings shall be exempt from the provisions of the Kansas administrative procedure act and subsection (a).

(h) The department of social and rehabilitation services shall not have jurisdiction to determine the facial validity of a state or federal statute. An administrative law judge from the office of administrative hearings shall not have jurisdiction to determine the facial validity of an agency rule and regulation.

(i) The department of social and rehabilitation services shall not be required to provide a hearing if: (1) The department of social and rehabilitation services lacks jurisdiction of the subject matter; (2) resolution of the matter does not require the department of social and rehabilitation services to issue an order that determines the applicant's legal rights, duties, privileges, immunities or other legal interests; (3) the matter was not timely submitted to the department of social and rehabilitation services pursuant to regulation or other provision of law; or (4) the matter was not submitted in a form substantially complying with any applicable provision of law.

History: L. 1939, ch. 202, § 6; L. 1947, ch. 425, § 7; L. 1949, ch. 447, § 1; L. 1972, ch. 325, § 1; L. 1973, ch. 186, § 33; L. 1984, ch. 320, § 1; L. 1988, ch. 356, § 302; L. 1989, ch. 283, § 21; L. 1997, ch. 182, § 77; L. 1997, ch. 182, § 91; July 1, 1998.

75-3365. Sale of certain real estate in Stafford county; proceeds. (a) The secretary of social and rehabilitation services is hereby authorized to sell and convey on behalf of the state of Kansas in the manner provided by this act the following described real estate: The southwest Quarter of Section 24; Township 22, Range 13 in Stafford County, Kansas. The above described property being that which was willed to the state of Kansas by Otto Hitz following the life estate created for Delmar Lee Hitz.

(b) When the real estate described in subsection (a) is sold, the proceeds thereof, after deduction of the expenses of such sale and the cost of the survey and the appraisal of the real estate, shall be deposited in the state treasury to the

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77-437 STATUTES; ADMIN. RULES AND REGULATIONS; PROCEDURE

may introduce such legislation as it deems necessary in performing its functions of reviewing administrative rules and regulations and agency forms.

(d) All rules and regulations filed each year in the office of secretary of state and all forms used by state agencies and all rules and regulations specifically excluded from the definition of rule and regulation under subsection (4) of K.S.A. 77-415, and amendments thereto, shall be subject to review by the joint committee. The committee may introduce such legislation as it deems necessary in performing its functions of reviewing administrative rules and regulations and agency forms.

(e) The joint committee shall meet on call of the chairperson as authorized by the legislative coordinating council. All such meetings shall be held in Topeka, unless authorized to be held in a different place by the legislative coordinating council. Members of the joint committee shall receive compensation and travel expenses and subsistence expenses or allowances as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of such committee authorized by the legislative coordinating council.

(f) Amounts paid under authority of this section shall be paid from appropriations for legislative expense and vouchers therefor shall be prepared by the director of legislative administrative services and approved by the chairperson or vice-chairperson of the legislative coordinating council.

History: L. 1977, ch. 321, § 19; L. 1980, ch. 304, § 8; L. 1981, ch. 366, § 4; L. 1983, ch. 307, § 5; L. 1988, ch. 368, § 1; L. 1988, ch. 366, § 44; L. 1995, ch. 93, § 4; July 1.

Law Review and Bar Journal References:

"Judicial Review of Administrative Action—Kansas Perspectives," David L. Ryan, 19 W.L.J. 423, 433 (1980).

"The New Mandamus—State ex rel. Stephan v. Kansas House of Representatives," Henry E. Couchman, Jr., 33 K.L.R. 733, 742, 744 (1985).

Attorney General's Opinions:

Scope and extent of rules and regulations filing act. 82-119.

77-437. Rules and regulations of the secretary of corrections and Kansas adult authority subject to provisions of the rules and regulations filing act. All temporary and permanent rules and regulations of the secretary of corrections and the Kansas adult authority shall be subject to all of the provisions of K.S.A. 77-415 to 77-436, inclusive, and amendments thereto.

History: L. 1978, ch. 120, § 23; L. 1982, ch. 386, § 8; April 29.

77-438. Citation of act. K.S.A. 77-415 to 77-437, inclusive, and acts amendatory thereof or supplemental thereto shall be known and may be cited as the rules and regulations filing act.

History: L. 1982, ch. 386, § 9; April 29.

77-439.

History: L. 1985, ch. 306, § 1; Repealed, L. 1988, ch. 366, § 50; June 1.

Article 5.—ADMINISTRATIVE PROCEDURE ACT

Law Review and Bar Journal References:

"Groundwater Pollution I: The Problem and the Law," Robert L. Glicksman, George Cameron Coggins, 35 K.L.R. 75, 142 (1986).

"1988 Legislative Summary Part I," Ron Smith, 57 J.K.B.A. No. 6, 31, 33, 35, 39 (1988).

"Survey of Kansas Law: Administrative Law," Steve A. Leben, 37 K.L.R. 679 (1989).

"Environmental Issues in Real Estate and Other Business Transactions," David R. Tripp, 60 J.K.B.A. No. 1, 23, 28 (1991).

"The Kansas Water Appropriation Act: A Fifty-Year Perspective," John C. Peck, 43 K.L.R. 735, 753 (1995).

"Loss of Water Rights for Non-Use," John C. Peck and Constance Crittenden Owen, 43 K.L.R. 801, 803 (1995).

"Ethical Dilemmas for the Kansas Government Lawyer," Brian J. Moline, 5 Kan. J.L. & Pub. Pol'y, No. 1, 105, 111, 113 (1995).

Attorney General's Opinions:

Parimutuel racing; refund of deposit of unsuccessful applicant for license; setoffs. 88-120.

Attendants' certificates; forms; requirements; renewal; temporary certificates; fees. 90-12.

GENERAL PROVISIONS

Law Review and Bar Journal References:

"The New Kansas Administrative Procedure and Judicial Review Acts," David L. Ryan, 54 J.K.B.A. 53, 56 (1985).

77-501. Title. K.S.A. 77-501 through 77-541 shall be known and may be cited as the Kansas administrative procedure act.

History: L. 1984, ch. 313, § 1; July 1, 1985.

Research and Practice Aids:

Administrative Law and Procedure — 1 et seq.

C.J.S. Public Administrative Law and Procedure § 2.

Law Review and Bar Journal References:

"Challenging and Defending Agency Actions in Kansas," Steve Leben, 64 J.K.B.A. No. 5, 22, 23 (1995).

Attorney General's Opinions:

Audit records held by the department of revenue; limits on dissemination and use. 95-6.

Professional license or registration disciplinary proceedings; definitions; burden of proof. 95-54.

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ADMINISTRATIVE PROCEDURE ACT

77-503

CASE ANNOTATIONS

1. Act creates only procedural rights and imposes only procedural duties. *Expert Environmental Control, Inc. v. Walker*, 13 K.A.2d 56, 57, 761 P.2d 320 (1988).
2. Provisions of act not applicable to decisions and actions of Kansas racing commission regarding issuance of licenses (74-8801 et seq.). *Kansas Racing Management, Inc. v. Kansas Racing Comm'n*, 244 K. 343, 347, 364, 770 P.2d 423 (1989).
3. Authority of Board of Healing Arts to regulate the practice of medicine, review of board's decisions examined. *Vakas v. Kansas Bd. of Healing Arts*, 248 K. 589, 590, 808 P.2d 1355 (1991).
4. Where action duly revived (60-225), appellate decision, if any, noted as final judgment perfecting demand against estate (59-2238). In re Estate of Rains, 249 K. 178, 183, 815 P.2d 61 (1991).
5. Act for judicial review of agency actions (77-601 et seq.) noted as exclusive means of review unless agency specifically exempted. *Kansas Sunset Assocs. v. Kansas Dept. of Health & Environment*, 16 K.A.2d 1, 2, 818 P.2d 797 (1991).
6. Noted in opinion holding current statutes (22-3428 et seq.) regarding continued commitment of insanity acquittee unconstitutional; court engrafts new requirements. In re Application of Noel for Discharge Hearing, 17 K.A.2d 303, 314, 838 P.2d 336 (1992).
7. Petition for reconsideration a prerequisite for seeking judicial review (77-529) of decision of Kansas human resources commission (44-1010). *United Steelworkers of America v. Kansas Comm'n on Civil Rights*, 253 K. 327, 330, 855 P.2d 105 (1993).
8. Cited in review of Kansas water authority's water transfer order on statutory, jurisdictional and administrative procedure grounds. *Water District No. 1 v. Kansas Water Authority*, 19 K.A.2d 236, 241, 866 P.2d 1076 (1994).
9. Whether defendants misused emergency proceedings provisions of KAPA in administrative license suspension action examined. *Lindenman v. Umscheid*, 255 K. 610, 613, 875 P.2d 964 (1994).
10. Whether the denial of hearing on emergency suspension until doctor submitted to mental evaluation violated due process examined. *Corder v. Kansas Board of Healing Arts*, 256 K. 638, 647, 889 P.2d 1127 (1994).
11. Whether court erred by quashing most of subpoena duces tecum as unreasonable and oppressive examined. In re Tax Appeal of Collingwood Grain, Inc., 257 K. 237, 254, 891 P.2d 422 (1995).

77-502. Definitions. As used in this act:

- (a) "State agency" means any officer, department, bureau, division, board, authority, agency, commission or institution of this state, except the judicial and legislative branches of state government and political subdivisions of the state, which is authorized by law to administer, enforce or interpret any law of this state.
- (b) "Agency head" means an individual or body of individuals in whom the ultimate legal authority of the state agency is vested by any provision of law.
- (c) "License" means a franchise, permit, certification, approval, registration, charter or similar

form of authorization required by law for a person to engage in a profession or occupation.

(d) "Order" means a state agency action of particular applicability that determines the legal rights, duties, privileges, immunities or other legal interest of one or more specific persons.

(e) "Party to state agency proceedings," or "party" in context so indicating, means:

(1) A person to whom an order is specifically directed; or

(2) a person named as a party to a state agency proceeding or allowed to intervene as a party in the proceeding.

(f) "Person" means an individual, partnership, corporation, association, political subdivision or unit thereof or public or private organization or entity of any character, and includes another state agency.

(g) "Political subdivision" means political or taxing subdivisions of the state, including boards, commissions, authorities, councils, committees, subcommittees and other subordinate groups or administrative units thereof, receiving or expending and supported in whole or in part by public funds.

History: L. 1984, ch. 313, § 2; L. 1988, ch. 356, § 1; July 1, 1989.

Research and Practice Aids:

Administrative Law and Procedure ¶ 1 et seq.

C.J.S. Public Administrative Law and Procedure § 2.

Attorney General's Opinions:

Examination and registration of cosmetologists and beauty shops; salon or clinic license. 91-151.

Act not applicable to city or county planning and zoning. 85-97.

CASE ANNOTATIONS

1. Whether an ALJ order which awards workers compensation benefits is an order under KAPA subject to review examined. *McClure v. Rodricks*, 20 K.A.2d 102, 105, 883 P.2d 1228 (1994).

77-503. Application and construction.

(a) This act applies only to the extent that other statutes expressly provide that the provisions of this act govern proceedings under those statutes.

(b) This act creates only procedural rights and imposes only procedural duties. They are in addition to those created and imposed by other statutes.

History: L. 1984, ch. 313, § 3; July 1, 1985.

Research and Practice Aids:

Administrative Law and Procedure ¶ 1 et seq.

C.J.S. Public Administrative Law and Procedure § 2.

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77-504 STATUTES; ADMIN. RULES AND REGULATIONS; PROCEDURE

Law Review and Bar Journal References:

"The New Kansas Administrative Procedure and Judicial Review Acts," David L. Ryan, 54 J.K.B.A. 53, 56 (1985).

Attorney General's Opinions:

Act not applicable to city or county planning and zoning. 95-97.

CASE ANNOTATIONS

1. Act creates only procedural rights and imposes only procedural duties. *Expert Environmental Control, Inc. v. Walker*, 13 K.A.2d 56, 57, 761 P.2d 320 (1988).

77-504. Waiver. Except to the extent precluded by another provision of law, a person may waive any right conferred upon that person by this act.

History: L. 1984, ch. 313, § 4; July 1, 1985.

Research and Practice Aids:

Estoppel = 52.10(4).

C.J.S. Estoppel § 61.

77-505. Informal settlements. Nothing in this act shall preclude informal settlement of matters that may make unnecessary more elaborate proceedings under this act.

History: L. 1984, ch. 313, § 5; July 1, 1985.

Research and Practice Aids:

Administrative Law and Procedure = 318; Compromise and Settlement = 3.

C.J.S. Public Administrative Law and Procedure §§ 52, 70; Compromise and Settlement § 3.

77-506. Conversion of proceedings. (a) At any point in a state agency proceeding the presiding officer or other state agency official responsible for the proceeding:

(1) May convert the proceeding to another type of state agency proceeding if the conversion is appropriate, is in the public interest and does not substantially prejudice the rights of any party; and

(2) if required by any provision of law, shall convert the proceeding to another type of state agency proceeding.

(b) A conversion of a proceeding of one type to a proceeding of another type may be effected only upon notice to all parties to the original proceeding.

(c) If the presiding officer or other state agency official responsible for the original proceeding would not have authority over the new proceeding to which it is to be converted, that officer or official, in accordance with state agency procedure, shall secure the appointment of a successor to preside over or be responsible for the new proceeding.

(d) The record of the original state agency proceeding may be used in the new state agency proceeding.

(e) After a proceeding is converted from one type to another, the presiding officer or other state agency official responsible for the new proceeding shall:

(1) Give such additional notice to parties or other persons as is necessary to satisfy the requirements pertaining to those proceedings;

(2) dispose of the matters involved without further proceedings if sufficient proceedings have already been held to satisfy the requirements pertaining to the new proceedings; and

(3) conduct or cause to be conducted any additional proceedings necessary to satisfy the requirements pertaining to those proceedings.

History: L. 1984, ch. 313, § 6; L. 1988, ch. 356, § 2; July 1, 1989.

Research and Practice Aids:

Administrative Law and Procedure = 446.

C.J.S. Public Administrative Law and Procedure § 116.

Law Review and Bar Journal References:

"The New Kansas Administrative Procedure and Judicial Review Acts," David L. Ryan, 54 J.K.B.A. 53, 57, 63 (1985).

77-507. Effective date of act. This act shall take effect on July 1, 1985, and does not govern adjudicative proceedings pending on that date. Subject to K.S.A. 1985 Supp. 77-503, this act governs all state agency adjudicative proceedings commenced after that date. This act also governs state agency adjudicative proceedings conducted on a remand from a court or another state agency after the effective date of this act.

History: L. 1984, ch. 313, § 7; July 1, 1985.

Attorney General's Opinions:

Act not applicable to city or county planning and zoning. 95-97.

77-507a. Effective date of 1988 act. This act shall take effect on July 1, 1989, and does not govern adjudicative proceedings pending on that date. Subject to K.S.A. 77-503 and amendments thereto, this act governs all state agency adjudicative proceedings commenced after that date. This act also governs state agency adjudicative proceedings conducted on a remand from a court or another state agency after the effective date of this act.

History: L. 1988, ch. 356, § 360; July 1, 1989.

CASE ANNOTATIONS

1. Unique circumstances doctrine excused party's untimely petition for reconsideration of workers compensation board